

## Message Text

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NSAE-00 CIEP-01 SP-02 STR-04 TRSE-00 LAB-04 SIL-01

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E.O. 11652: N/A

TAGS: EINV, XG, JA, AS, EEC

SUBJECT: FOREIGN INVESTMENT STUDY ACT OF 1974 - THE EUROPEAN  
COMMUNITIES

REFS: A) USDOC, JUNE 17, 1975

B) STATE 107242

C) EC-A-95, MARCH 7, 1975

D) EC BRUSSELS 5319, JULY 17, 1974

E) EC-A-109, MARCH 19, 1975

F) EC BRUSSELS 1748

G) EC 4920, JULY 5, 1974

H) EC-A-288, DEC. 17, 1974

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1. SUMMARY: THE EUROPEAN COMMUNITIES HAS SOMETHING  
OF AN INCENTIVE PROGRAM FOR THE COAL AND STEEL INDUSTRY AND ITS  
NEW REGIONAL FUND IS SUPPORTIVE OF MEMBER STATE PROGRAMS TO  
ATTRACT INVESTMENTS. NATIONAL TREATMENT IS A BASIC PRINCIPLE OF  
THE EC, ALTHOUGH THE COMMISSION HAS DEVIATED FROM THIS PRINCIPLE  
IN THE FORMULATION OF ITS PROPOSALS FOR THE DATA PROCESSING

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SECTOR. END SUMMARY.

2. IN RESPONSE TO REFTEL B IT SHOULD BE NOTED AT THE OUTSET THAT UNDER THE TREATY OF ROME (EEC) THE FORMULATION AND APPLICATION OF INVESTMENT POLICY REMAINS ALMOST ENTIRELY WITHIN THE COMPETENCE OF THE MEMBER STATES. THE TREATY DOES, HOWEVER, CONTAIN ARTICLES WHICH HAVE AN EFFECT ON THE POLICIES OF THE MEMBER STATES. ARTICLE 58 AND PRECEEDING ARTICLES ON THE RIGHT OF ESTABLISHMENT PROVIDE THAT FIRMS LEGALLY REGISTERED IN ONE MEMBER STATE SHALL BE FREE TO ESTABLISH THEMSELVES TO DO BUSINESS IN OTHER MEMBER STATES UNDER THE SAME CONDITIONS AS THOSE LAID DOWN FOR THEIR OWN NATIONALS. UNDER ARTICLES 92-94 DEALING WITH STATE AIDS, THE EC COMMISSION SCRUTINIZES MEMBER STATE INVESTMENT AID PROGRAMS TO DETERMINE IF SUCH PROGRAMS ARE COMPATIBLE WITH THE COMMON MARKET. (SEE REFERENCE C ON EC COMMISSION GUIDELINES ON MEMBER STATE REGIONAL AID PROGRAMS.)

3. THE TREATY OF PARIS (EUROPEAN COAL AND STEEL COMMUNITY) DOES GET THE EC INTO THE INVESTMENT POLICY FIELD TO SOME DEGREE. UNDER ARTICLE 54, MAJOR INVESTMENTS IN THE COAL AND STEEL INDUSTRIES MUST BE NOTIFIED TO THE EUROPEAN COMMISSION (THE DIRECTORATE GENERAL FOR CREDITS AND INVESTMENTS IN LUXEMBOURG). THE COMMISSION THEN PROVIDES AN OPINION ON THE DESIRABILITY OF SUCH INVESTMENTS WITHIN THE FRAMEWORK OF THE GENERAL OBJECTIVES CALLED FOR UNDER ARTICLE 46 OF THE TREATY. IF THE COMMISSION GIVES A NEGATIVE OPINION ON A PROPOSED INVESTMENT, THE PROJECT MAY NOT BENEFIT FROM ECSC LOANS. IF THE COMMISSION FINDS THAT THE FINANCING OF INVESTMENT PROGRAMS AND EVENTUAL PRODUCTION WOULD INVOLVE SUBSIDIES, AIDS, PROTECTION OR DISCRIMINATION CONTRARY TO THE PARIS TREATY, THE FIRM CONCERNED MAY NOT USE OTHER THAN ITS OWN FUNDS TO CARRY OUT THE INVESTMENT PROGRAM.

4. SPECIAL INCENTIVES OFFERED BY THE EC: THE PARIS TREATY PROVIDES FOR SUBSIDIZED LOANS IN SPECIAL CASES TO THE COAL AND STEEL INDUSTRY AND THROUGH MAJOR BORROWINGS ON THE INTERNATIONAL MONEY MARKET CAN MAKE LOANS TO THESE SECTORS AT BETTER RATES AND LONGER TERMS THAN THEY NORMALLY WOULD OBTAIN. (SEE ARTICLES 54-56 OF THE PARIS TREATY AND REFTEL D). ALTHOUGH THE ABOVE MAY BE CONSIDERED INCENTIVES TO INVESTMENT IN COAL AND STEEL, LIMITED OFFICIAL USE

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THE BENEFICIARIES ARE ALMOST ENTIRELY, FROM THE NATURE OF THESE INDUSTRIES, FIRMS ALREADY OPERATING IN THE EC, WHICH ARE SEEKING TO EXPAND CAPACITY OR RATIONALIZE PRODUCTION. THE ONLY EC PROGRAM THAT MAY ATTRACT NEW OUSTIDE INVESTMENTS IS THE RECENTLY ESTABLISHED EC REGIONAL FUND. AS DESCRIBED IN REFERENCE E, DURING THE FIRST THREE YEARS OF THE FUND'S EXISTENCE (1975-1977) THE EC WILL MAKE AVAILABLE TO MEMBER STATES CERTAIN SHARES OF A TOTAL OF 1.3 BILLION UNITS

OF ACCOUNT (\$1.57 BILLION). UNTIL A COMMUNITY-WIDE REGIONAL POLICY IS AGREED UPON, THE EC FUNDING WILL BE USED TO SUPPLEMENT THE FUNDS PROVIDED UNDER MEMBER STATE REGIONAL AID PROGRAMS. IT IS TOO EARLY TO TELL WHETHER THE EC FUNDS WILL HELP ATTRACT INVESTMENTS TO SOUTHERN ITALY, IRELAND, AND DEPRESSED AREAS IN THE UK, THE "REGIONS" WHERE THE BULK OF THE EC REGIONAL FUND WILL BE DIRECTED.

5. "NATIONAL TREATMENT" OF FOREIGN FIRMS: AS A GENERAL PRINCIPLE AND PARTICULARLY WHEN DISCUSSING MULTINATIONAL ENTERPRISES, THE OFFICIAL EC POSITION IS THAT BOTH EC FIRMS AND FOREIGN SUBSIDIARIES WILL BE GIVEN EQUAL TREATMENT. NEVERTHELESS, A STATED OBJECTIVE OF EC INDUSTRIAL POLICY IS THE DEVELOPMENT AND STRENGTHENING OF "EUROPEAN" INDUSTRY.

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6. DATA PROCESSING: THE ONE EC SECTORAL POLICY WHICH CONTAINS THE SEEDS OF DISCRIMINATORY TREATMENT TOWARD US FIRMS ESTABLISHED WITHIN THE EC IS THAT ON DATA PROCESSING. THE OBJECTIVE OF THE POLICY AS EXPLAINED BY THE COMMISSION IS TO SUPPORT EUROPEAN-BASED COMPANIES SO THAT THEY CAN COMPETE WITH US FIRMS. IN THE DATA PROCESSING FIELD THE COMMISSION HAS DEFINED A "EUROPEAN" FIRM AS ONE WITH ITS DECISION MAKING CENTER IN THE EC. THE MEMBER STATES HAVE NOT ACCEPTED THIS DEFINITION (SEE REFTL

F). THE EC COUNCIL, ON JUNE 24, 1974 PASSED A RESOLUTION ON A COMMUNITY POLICY ON DATA PROCESSING WHICH CALLS UPON THE COMMISSION TO PRESENT PROPOSALS TO ENCOURAGE THE EUROPEAN DATA PROCESSING INDUSTRY. THE COMMISSION HAS PRESENTED SOME OF THESE, BUT EVEN THE MOST MINOR ARE RUNNING INTO TROUBLE. (SEE REFTELS F AND G).

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IF THE MEMBER STATES WOULD FOLLOW THE COMMISSION'S POLICY LINE IT COULD LEAD TO A CLEAR CASE OF DISCRIMINATORY TREATMENT TOWARD FOREIGN FIRMS. (SEE STATEMENT OF CHRISTOPHER LAYTON OF THE EC COMMISSION AT THE HEARINGS BEFORE THE SENATE ANTI-TRUST AND MONOPOLY SUBCOMMITTEE, JULY 23, 1974.) HOWEVER, AS LIMITED OFFICIAL USE

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NOTED ABOVE ALL MEMBER STATES DO NOT ACCEPT THE COMMISSION'S DEFINITION OF "EUROPEAN". FURTHERMORE, THE FUTURE OF THE EC COMPUTER POLICY IS PROBLEMATICAL BECAUSE A) IT MEETS A LITTLE ENTHUSIASM AMONG THE MEMBER STATES WHICH HAVE NO DATA PROCESSING INDUSTRY OR WHICH HAVE US FIRMS PRODUCING IN THEIR COUNTRIES AND B) THERE IS SERIOUS DOUBT AMONG MANY OBSERVERS AS TO WHETHER THE EC DATA PROCESSING INDUSTRY (OR AT LEAST THE CENTRAL PROCESSING UNIT SECTOR) CAN DEVELOP WITHOUT COLLABORATION WITH US INDUSTRY. THE RECENT APPROVAL BY THE FRENCH GOVERNMENT OF A MERGER BETWEEN THE COMPAGNIE INTERNATIONALE POUR L'INFORMATIQUE (CII) AND HONEYWELL BULL IS A CASE IN POINT. END LIMITED OFFICIAL USE.

7. INFORMATION GATHERING: THERE ARE NO EC REQUIREMENTS THAT FOREIGN INVESTORS SUBMIT DATA TO THE EC COMMISSION. THE EC HAS REQUESTED, ON A VOLUNTARY BASIS, INFORMATION FROM FIRMS ESTABLISHED WITHIN AND OUTSIDE THE EC IN CONNECTION WITH ITS WORK ON A POLICY TOWARD MULTINATIONALS, BUT THIS IS AN AD HOC EXERCISE (SEE REFERENCE H).

8. OPEC INVESTMENTS: THE EC HAS NO POLICY REGARDING OPEC INVESTMENTS. NEITHER THE COMMISSION, NOR, SO FAR AS WE KNOW, THE MEMBER STATES, HAVE PLANS TO DEVELOP SUCH A COMMON POLICY AT THIS TIME. GREENWALD

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW, INVESTMENTS, FOREIGN INVESTMENTS, INVESTMENT PROGRAMS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 14 JUL 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** CunninFX  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975ECBRU06376  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D750242-1092  
**From:** EC BRUSSELS  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1975/newtext/t19750756/aaaabybc.tel  
**Line Count:** 213  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION COME  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** CunninFX  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 22 APR 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <22 APR 2003 by SmithRJ>; APPROVED <02 OCT 2003 by CunninFX>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
06 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** FOREIGN INVESTMENT STUDY ACT OF 1974 - THE EUROPEAN COMMUNITIES  
**TAGS:** EINV, XG, JA, AS, EEC  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006